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**FILED RECEIVED**  
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FEB 08 2005  
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**OFFICE OF PETITIONS**

In re Application of  
Dana Mears et al  
Application No. 10/053,931  
Filed: January 22, 2002  
Attorney Docket No. ZIM0048-02

:  
:DECISION DISMISSING  
:PETITION TO WITHDRAW  
:FROM ISSUE UNDER  
:37 CFR 1.313((c)(2)

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**FEB 08 2005**

**OFFICE OF PETITIONS**

This is a decision on the petition, filed February 2, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a submission pursuant to 37 CFR 1.114;  
or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

The instant petition fails to comply with item (2) above. In this regard, the petition requests withdrawal from issue "so that a supplemental declaration correcting a deficiency in the declaration previously filed in this matter can be submitted in this matter." However, as 37 CFR 1.114 requires a "submission," the petition cannot be granted until such time as a submission is received.

Petitioner is advised that any renewed petition for withdrawal from issue under 37 CFR 1.313(c)(2) with a "submission" must be received and granted by the deciding official's office prior to issuance in order to effectively withdraw the application from issue. Any renewed petition (with the submission) may be facsimile transmitted directly to the Office of Petitions at (571) 273-0025.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy